

Confidential Claim Retracted

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**COMMENTS
ON
THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
ON
THE RECLAMATION
OF
THE JACKPILE-PAGUATE URANIUM MINE**

BY

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1.0 GENERAL COMMENTS

Is it the policy of the Council of Energy Resource Tribes (CERT), to hold the Department of the Interior (DOI) accountable for its fiduciary responsibility, for prescribing and involving the applicable regulations to get the Jackpile-Paguate Mine site reclaimed. CERT feels that the DOI has produced a Draft EIS which is technically defensible, financially fair, and legally within bounds of its authority. The document's improvement over the Preliminary Draft EIS is obvious, though it still contains shortcomings on health hazards and damages to homes in the village of Paguate. CERT urges the DOI to take a positive and constructive position in discharging its trust responsibility.

Attached to these comments is a resolution which was passed by the Board of Directors of the Council of Energy Resource Tribes, which is composed of 40 Indian tribes endowed with energy resources. The Pueblo of Laguna Tribe is a founding member. The Resolution was passed by the Board unanimously in its September 26, 1985 session.

2.0 MINE SITE

Anaconda, during 29 years of its mining activity from 1953 to 1982 on the Pueblo of Laguna Reservation, hauled over 400 million tons of material with 25 million pounds of yellow cake on three leases which covered 7,868.59 acres of land. The leases included three open pits, which are known to be the largest in the world, and nine underground mines, and provided the U. S. government with its needed uranium resource. As a result of mining for 29 years, 2,656 acres of surface were disturbed with open pits, waste dumps, protore stockpiles, contaminated roads and river beds.

It was in response to its obligations and commitment to reclaim the Jackpile-Paguate mine site that Anaconda submitted a number of gradually improved mine/reclamation plans from November 1973 to August 1981. The 1981 reclamation plan, known as the "Green-Book" Plan, though it is beset by a series of shortcomings, demonstrated the company's intention to reclaim the site. Clearly, the purpose here was to improve upon the building blocks of harmony and fairness that ARCO and Anaconda leaders instituted in their relationship with Indian tribes in general and the Pueblo of Laguna in particular. The Green-Book Plan was pronounced by a very high authority at Anaconda as a responsible and technically defensible plan.

The Green-Book Plan was developed by the company utilizing the results of several years of experience in reclaiming 485 acres of the Jackpile-Paguate Mine by Anaconda in conjunction with operations of the mine. Further, it took into account the results of extensive environmental investigations conducted by the company and its consultants and reflected guidance provided by the Pueblo of Laguna Tribe. The goal of Anaconda was to reclaim the disturbed area in such a way as to allow the optimal use of the land while protecting the natural resources of the area. The goal considered the guidelines set forth in a letter of June 9, 1980 of the Pueblo of Laguna Tribe.

The participation and cooperation of Anaconda in various meetings and forums have given the indications that it has implicitly accepted the EIS process. It was in response to the Interior's request that Anaconda, not only placed a \$45 million bond, but developed the Green-Book Plan to address the reclamation issues adequately and

responsibly. On the basis of the Draft EIS, the difference in reclamation cost between what the Interior has estimated to be adequate and what the company came to accept in the latter part of 1980 as reasonable was not substantial and could be bridged if the company had not reversed itself by offering its 1985 plan. CERT feels that the Interior has produced a Draft EIS, which is technically defensible, financially fair, and legally within bounds of its authority. The document has certain shortcomings on health hazards and damages to homes in the village of Paguate as will be explained later.

It has been claimed that the Interior and the tribe did not respond to the many plans that Anaconda had submitted in the past. It must be noted with confidence that the tribe has always acted in good faith and with a desire to resolve the matter with fairness and equity. All Laguna tribal leaders have been concerned about, not only the well-being of their own people, but those who have been exposed to the hazardous consequences of inaction with respect to the site reclamation.

It is important to note that the tribe had to start from zero information to decide. Anaconda never shared its reclamation information with the tribe with a view to help the tribe to initiate action. Now, with the help of CERT and other organizations, the tribe is in a position to march forward and resolve the matter. As a matter of fact, the tribe informed the company in June 1985, that it is ready to negotiate a settlement to be included in the Final EIS. The tribe has been ready to resolve the differences between what was rationally advocated in the Green-Book Plan and the Laguna plan using available legitimate forums and processes.

With the evidence of rationality and prudence up to May 1985, Anaconda withdrew its 1981 plan in August 1985, and replaced it with a plan which is now called the "Multiple Land Use Reclamation Plan." The 1985 plan calls for the removal of hazardous waste material existing in the river beds of the Rio Paguate and Rio Maquino and be used as backfill in North Paguate pit. It also proposes that the ore-associated waste of waste dumps from sloping may be relocated and used as pit backfill including the North Paguate pit. Then, it proceeds to recommend that the North Paguate pit be used as a water storage reservoir. This is, indeed, a far cry from what the leaders of ARCO and Anaconda have advocated for the Indians in the past.

The 1985 plan of Anaconda ostensibly states that the pit highways are all stable and need not require any reclamation action. This belies the statements of truism that one finds in the Green-Book Plan. When pit highwalls with a potential for failure were evaluated, in the Green-Book Plan in terms of long-term stability, Anaconda registered its opinion in print that the Jackpile highwalls is a case where the stability of the wall was questionable and decided to include action in the 1981 plan to render it safe for the postmining proposed usage. Methods which were suggested to be utilized to improve highwall stability were buttressing the base of the wall and removing a portion of the highwall at its crest.

The 1985 reclamation plan has made no mention of the groundwater recovery level for the proposed reclamation area. To that extent, there is no mention of backfilling the pits to a given level with a moderate and reliable level of cover for the backfill. In fact, it claims that the statement in the Green-Book Plan that in order to afford groundwater protection, the pits must be backfilled to an elevation of three feet above the projected level of recovered of the water table is incredibly ludicrous. The 1981 plan proposed that the three pits be backfilled to the 5,932 to 6,053 feet levels. The backfill materials would consist of protore, waste dumps H and J, and excess material obtained from waste dump resloping and streams channel clearing. These materials would be covered with four feet of overburden and one foot of topsoil.

In the 1981 proposed plan, it was indicated that during mining operations dust containing hazardous particulates, control was maintained by application of water to haul roads. The Green-Book Plan, in recognition of the air quality impact, attempted to undertake reclamation as soon as possible. The 1985 proposed reclamation plan implies that there is no imminent problem associated with airborne particulates and may allow the debate on reclamation to prolong aimlessly. This attitude runs counter to the public statements that the captains of the ARCO complex have uttered in the past.

In the 1981 plan, the basic objectives involved in dump reclamation were slope stability, erosion control and establishment of vegetation. In the case of Jackpile sandstone waste dumps, an additional objective was declared to be to discourage the removal of this Jackpile sandstone for possible use in construction or other purposes by placing a minimum of five feet of cover over this type of material. In 1985, the

entire problem has been assumed away and the reservation and the surrounding areas are considered safe to live on.

CERT is astonished by the fact that Anaconda has turned its back on the tribe and is now pursuing a course of action which will not be at all conducive to the Indian-industry relationship that the present administration has advocated. The Department of the Interior is likewise disdainful of the views and needs of the Pueblo of Laguna. The Draft EIS has indicated that the Department of the Interior is responsible for determining the proper level of reclamation for the Jackpile-Paguate uranium mine. The tribe has maintained a major concern on a series of issues which they feel are germane to an acceptable reclamation plan. Nevertheless, the Bureau of Land Management, as evidenced by the Draft EIS, considered these issues to be irrelevant to a reasonable reclamation plan.

First, there are a number of reclamation issues that have passed BLM's notice. The DEIS does not discuss the design life for any of the reclamation alternatives, although the Anaconda and DOI's alternatives have a design life. What is important is whether or not this design life is structured long enough to prevent erosion in time. The question is, also, whether the design life in the DOI's alternatives withstand the forces of a few major rainfalls, floods, or earthquakes. In order for the tribe to be protected against all possible hazards and negative consequences, the DOI ought to provide for long-term protection in its preferred alternative. These long-term provisions should be structured to guarantee the safety of reclaimed open-pits, stability of high walls, protection against erosion of waste pile slopes. These provisions could only be secured in case the preferred alternative includes a long-term monitoring, and maintenance scheme. The Draft EIS, moreover, appears to have embraced the Anaconda hydrology study. The Draft EIS does not explain as to why it has included the results of Anaconda's modeling of the ground water recovery levels used to assess ground water impacts. Inasmuch as the hydrology issue is of fundamental importance to the Tribe, it is necessary that the DOI include in its final EIS a complete explanation of its decision.

Although the residents of the village of Paguate have raised the question of damages to homes in their village, neither the Preliminary Draft EIS nor the Draft EIS has addressed it. In fact, the Draft EIS considered this issue as irrelevant to reclamation. If one reads carefully the leases granted to Anaconda, one is left with

the strong impression that such an issue is, in fact, in the heart of reclamation. So is the question of possible psychological effects that the mining operations and mine closure had on the Laguna people.

The tribe has, on many occasions, requested the Indian Health Service (IHS) to investigate the possible health impacts that mining operations had on former miners and residents of the Paguate village. The tribe has identified the need for a health profile on the residents and miners as affected by Anaconda mining. The Bureau of Land Management (BLM) has rejected the request as irrelevant to reclamation and IHS has done nothing substantive to shed light on the subject matter. Studies, general in nature, have been conducted by IHS, but they have failed to provide definite recommendations. The failure of IHS has militated against tribes taking positive steps to ameliorate the present conditions.

The Pueblo of Laguna Indian Tribe has two concerns with respect to disposition and placement of protore. First, it has suspected the protore may have been used to backfill the "Rabbit Ears" area in preparation for the realignment of S. R. 279. No attempt has been made to disprove the tribe's position. In fact, the Draft EIS has categorically stated that protection of the protore, unmined deposits and existing mine workings is outside the scope of the EIS. Secondly, the Draft EIS has implied that the protore is to be placed in all three pits. However, a hard look at where to place the protore stockpiles is of economic significance to the tribe, an issue which has passed unnoticed by BLM in its Draft EIS. The Green-Book Plan of 1981 by Anaconda pays a good deal more attention to the subject while the company's 1985 plan leaves all protore where they are.

The Bureau of Land Management has rejected as not within the scope of the EIS the siltation of Paguate Reservoir as a result of past mining operation. The tribe has also been perturbed by the limitation of the flow of irrigation water to the village of Mesita. Moreover, the Interior agencies have, in the past, acknowledged the increased radiological contamination through sedimentation of Quirk Reservoir during mining operation. Nevertheless, the importance of the issue and tribal concerns have passed unnoticed by BLM in its Draft EIS.

A curious fact of energy management on Indian reservations has been the absence of any meaningful and conducive impact from energy development on reservation

economy. The Laguna case is no exception. The company operated on the Laguna reservation for 29 years, produced close to 25 million pounds of U_3O_8 , and paid wages and royalties. Yet, today the tribe's per capita income is no more than \$2,000.00 with a 40% unemployment rate. The Draft EIS has indicated that increased job opportunities due to reclamation, in the manner proposed under the Green-Book Plan and the DO's alternatives, would temporarily decrease the existing unemployment and social problems. However, as reclamation, in the sense of EIS, progresses and the work force is reduced, unemployment would resume and associated social problems would reappear. Of course, with Anaconda's 1985 plan, there would be no employment impact to be expected. It is unfortunate that even the Draft EIS does not define reclamation as a long-term employment generating activity to be undertaken.

These are CERT's concerns which CERT requests to be included in the Final EIS so that the tribe could, in the post-mining period, address and attend to the social-economic issues it has been faced with during these bleak and unfortunate years since 1982 when the mine was shut down. CERT's concern is also for the non-Indian people, within a fifty mile radius from the mine site, who in Albuquerque and Santa Fe, and Grants, because of a possible flood in the area, will be impacted irreparably and irretrievably. The level of contamination on the roads, the dust particles, which are now uncontrolled, and the results of a possible flood in the mine area could bring disastrous consequences for which the company ought to be held responsible.